

ENROLLED HOUSE
BILL NO. 1823

By: Apple of the House

and

Rubottom of the Senate

An Act relating to crimes and punishments; amending 21 O.S. 1991, Sections 1462, 1503, 1521, 1541.2, 1541.3, 1705, 1719.1, 1722 and 1731, which relate to crimes against property; modifying monetary value for purposes of certain offenses; modifying punishment for certain crimes; allowing certain alternative sentences at the option of the court; and providing an effective date.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. AMENDATORY 21 O.S. 1991, Section 1462, is amended to read as follows:

Section 1462. Every person guilty of embezzlement is punishable in the manner prescribed for feloniously stealing property of the value of that embezzled, except that every person convicted of felonious embezzlement of any item valued at Fifty Dollars (\$50.00) or more but less than Five Hundred Dollars (\$500.00) shall be punished by incarceration in the county jail for not to exceed one (1) year or incarceration in the county jail one or more nights per week or weekends pursuant to Section 991a-2 of Title 22 of the Oklahoma Statutes, at the option of the court, and shall be subject to a fine of not more than Five Thousand Dollars (\$5,000.00) and ordered to provide restitution to the victim as provided in Section 991a of Title 22 of the Oklahoma Statutes, and every person convicted of embezzlement of any item valued at less than Fifty Dollars (\$50.00) shall be punished for a misdemeanor. And where the property embezzled is an evidence of debt or right in action, the sum due upon it, or secured to be paid by it, shall be taken as its value.

SECTION 2. AMENDATORY 21 O.S. 1991, Section 1503, is amended to read as follows:

Section 1503. Any person who shall obtain food, lodging, services or other accommodations at any hotel, inn, restaurant, boarding house, rooming house, motel or auto camp, with intent to defraud the owner or keeper thereof, if the value of such food, lodging, services or other accommodations ~~be of the value of~~ is Twenty Dollars (\$20.00) or less, shall be guilty of a misdemeanor and upon conviction thereof shall be fined not exceeding One Hundred Dollars (\$100.00), or be imprisoned in the county jail not exceeding three (3) months, or punished by both such fine and imprisonment, and if the value of such food, lodging, services or other accommodations ~~be~~ is more than Twenty Dollars (\$20.00) but less than Five Hundred Dollars (\$500.00), any person convicted pursuant to this section shall be guilty of a felony and shall be punished by incarceration in the county jail for not to exceed one (1) year or incarceration in the county jail one or more nights or weekends

pursuant to Section 991a-2 of Title 22 of the Oklahoma Statutes, at the option of the court, and shall be subject to a fine of not more than Five Thousand Dollars (\$5,000.00) and ordered to provide restitution to the victim as provided in Section 991a of Title 22 of the Oklahoma Statutes, if the value of such food, lodging, services or accommodations is valued at more than Five Hundred Dollars (\$500.00), any person convicted hereunder shall be deemed guilty of a felony and shall be punished by imprisonment in the State Penitentiary for a term not exceeding five (5) years. Any person who shall obtain shelter, lodging, or any other services at any apartment house, apartment, rental unit, rental house, or trailer camp, with intent to defraud the owner or keeper thereof, shall be guilty of a misdemeanor and upon conviction thereof shall be fined not exceeding One Hundred Dollars (\$100.00), or be imprisoned in the county jail not exceeding three (3) months, or be punished by both fine and imprisonment. Proof that such lodging, food, services or other accommodations were obtained by false pretense or by false or fictitious show or pretense of any baggage or other property, or that he gave a check on which payment was refused, or that he left the hotel, inn, restaurant, boarding house, rooming house, motel, apartment house, apartment, rental unit or rental house, trailer camp or auto camp, without payment or offering to pay for such food, lodging, services or other accommodation, or that he surreptitiously removed or attempted to remove his baggage, or that he registered under a fictitious name, shall be prima facie proof of the intent to defraud mentioned in this section; but this ~~act~~ section shall not apply where there has been an agreement in writing for delay in payment.

SECTION 3. AMENDATORY 21 O.S. 1991, Section 1521, is amended to read as follows:

Section 1521. Every person who shall lease or rent, for any period of time whatsoever, any motor vehicle and, with intent to cheat and defraud, who pays the fees for such lease or rental by means of a false, bogus or worthless check written for the sum of Twenty Dollars (\$20.00) or less shall be guilty of a misdemeanor and upon conviction thereof shall be punished by a fine not to exceed Five Hundred Dollars (\$500.00) or by imprisonment in the county jail for not more than six (6) months, or both such fine and imprisonment. If the value of the false, bogus or worthless check shall exceed the sum of Twenty Dollars (\$20.00) but is less than Five Hundred Dollars (\$500.00), any person convicted pursuant to this section shall be guilty of a felony and shall be punished by incarceration in the county jail for not to exceed one (1) year or incarceration in the county jail one or more nights or weekends pursuant to Section 991a-2 of Title 22 of the Oklahoma Statutes, at the option of the court, and shall be subject to a fine of not more than Five Thousand Dollars (\$5,000.00) and ordered to provide restitution to the victim as provided in Section 991a of Title 22 of the Oklahoma Statutes, if the value of the worthless check is Five Hundred Dollars (\$500.00) or more, any person convicted hereunder shall be deemed guilty of a felony and shall be punished by imprisonment in the State Penitentiary for a term not exceeding seven (7) years or by a fine not to exceed Five Hundred Dollars (\$500.00), or both such fine and imprisonment.

SECTION 4. AMENDATORY 21 O.S. 1991, Section 1541.2, is amended to read as follows:

Section 1541.2 If the value of the money, property or valuable thing referred to in Section 1541.1 of this title is Fifty Dollars (\$50.00) or more but less than Five Hundred Dollars (\$500.00), any person convicted pursuant to this section shall be guilty of a

felony and shall be punished by incarceration in the county jail for not to exceed one (1) year or incarceration in the county jail one or more nights or weekends pursuant to Section 991a-2 of Title 22 of the Oklahoma Statutes, at the option of the court, and shall subject to a fine of not more than Five Thousand Dollars (\$5,000.00) and ordered to provide restitution to the victim as provided in Section 991a of Title 22 of the Oklahoma Statutes, and if the value is Five Hundred Dollars (\$500.00) or more, any person convicted hereunder shall be deemed guilty of a felony and shall be punished by imprisonment in the State Penitentiary, for a term not more than ten (10) years, or by a fine not to exceed Five Thousand Dollars (\$5,000.00), or by both such fine and imprisonment.

SECTION 5. AMENDATORY 21 O.S. 1991, Section 1541.3, is amended to read as follows:

Section 1541.3 Any person making, drawing, uttering or delivering two or more false or bogus checks, drafts or orders, as defined by Section 1541.4 of this title, the total sum of which is Fifty Dollars (\$50.00) or more, even though each separate instrument is written for less than Fifty Dollars (\$50.00), all in pursuance of a common scheme or plan to cheat and defraud, shall be deemed guilty of a felony and shall be punished by imprisonment in the State Penitentiary, for a term not more than ten (10) years, or by a fine not to exceed Five Thousand Dollars (\$5,000.00), or by both such fine and imprisonment if the total sum is Five Hundred Dollars (\$500.00) or more. If the total sum is Fifty Dollars (\$50.00) or more, but less than Five Hundred Dollars (\$500.00), the person shall be guilty of a felony and shall be punished by incarceration in the county jail for not more than one (1) year or by incarceration in the county jail one or more nights or weekends pursuant to Section 991a-2 of Title 22 of the Oklahoma Statutes, at the option of the court, and shall be subject to a fine of not more than Five Thousand Dollars (\$5,000.00) and ordered to provide restitution to the victim as provided in Section 991a of Title 22 of the Oklahoma Statutes.

SECTION 6. AMENDATORY 21 O.S. 1991, Section 1705, is amended to read as follows:

Section 1705. Grand larceny is a felony punishable by imprisonment in the ~~penitentiary~~ State Penitentiary not exceeding five (5) years if the value of the property is Five Hundred Dollars (\$500.00) or more and if the value of the property is less than Five Hundred Dollars (\$500.00) punishable by incarceration in the county jail for not more than one (1) year or by incarceration in the county jail one or more nights or weekends pursuant to Section 991a-2 of Title 22 of the Oklahoma Statutes, at the option of the court, and shall be subject to a fine of not more than Five Thousand Dollars (\$5,000.00) and ordered to provide restitution to the victim as provided in Section 991a of Title 22 of the Oklahoma Statutes.

SECTION 7. AMENDATORY 21 O.S. 1991, Section 1719.1, is amended to read as follows:

Section 1719.1 A. For the purpose of this section:

1. "Domesticated fish or game" means all birds, mammals, fish and other aquatic forms and all other animals, regardless of classifications, whether resident, migratory or imported, protected or unprotected, dead or alive, and shall extend to and include every part of any individual species when such domesticated fish or game are not in the wild and are in the possession of a person currently licensed to possess such fish or game; and

2. "Taking" means the pursuing, killing, capturing, trapping, snaring and netting of domesticated fish or game or placing, setting, drawing or using any net, trap or other device for taking

domesticated fish or game and includes specifically every attempt to take such domesticated fish or game.

B. Any domesticated fish or game shall be considered the personal property of the owner.

C. Any person who shall take any domesticated fish or game, with the intent to deprive the owner of said fish or game, and any person purchasing or receiving such domesticated fish or game knowing them to have been stolen, shall:

1. Upon conviction, if the current market value of said domesticated fish or game is less than Fifty Dollars (\$50.00), be guilty of a misdemeanor and shall be punished by a fine of not more than Five Hundred Dollars (\$500.00) or imprisonment in the county jail for a period not to exceed sixty (60) days, or by both such fine and imprisonment; or

2. Upon conviction, if the current market value of said domesticated fish or game is more than Fifty Dollars (\$50.00), be guilty of a felony and shall be punished by a fine of not less than One Thousand Dollars (\$1,000.00) or imprisonment in the State Penitentiary for a term of not more than five (5) years, or by both such fine and imprisonment if the current market value is Five Hundred Dollars (\$500.00) or more. If the current market value is less than Five Hundred Dollars (\$500.00), the person shall be guilty of a felony and shall be punished by incarceration in the county jail for not more than one (1) year or by incarceration in the county jail one or more nights or weekends pursuant to Section 991a-2 of Title 22 of the Oklahoma Statutes, at the option of the court, and shall be subject to a fine of not more than Five Thousand Dollars (\$5,000.00) and ordered to provide restitution to the victim as provided in Section 991a of Title 22 of the Oklahoma Statutes.

SECTION 8. AMENDATORY 21 O.S. 1991, Section 1722, is amended to read as follows:

Section 1722. Any person who shall unlawfully take any crude oil or gasoline, or any product thereof, from any pipe, pipeline, tank, tank car, or other receptacle or container and any person who shall unlawfully take or cause to be taken any machinery, drilling mud, equipment or other materials necessary for the drilling or production of oil or gas wells, with intent to deprive the owner or lessee thereof of said crude oil, gas, gasoline, or any product thereof, machinery, drilling mud, equipment or other materials necessary for the drilling or production of oil or gas wells shall:

1. Be guilty of a misdemeanor if the value of said product so taken does not exceed the sum of Fifty Dollars (\$50.00), and upon conviction thereof, shall be punished by a fine of not more than One Hundred Dollars (\$100.00), or imprisonment in the county jail not to exceed sixty (60) days, or by both such fine and imprisonment;

2. Be guilty of a felony if the value of such product so taken exceeds the sum of Fifty Dollars (\$50.00) and upon conviction thereof, shall be punished by forfeiture of the instrumentality of the crime and by a fine of not less than One Hundred Dollars (\$100.00), and not more than Fifty Thousand Dollars (\$50,000.00), or confinement in the ~~penitentiary~~ State Penitentiary for a term of not less than one (1) year, and not more than ten (10) years, or by both such fine and imprisonment, if the value is Five Hundred Dollars (\$500.00) or more. If the value exceeds Fifty Dollars (\$50.00) but is less than Five Hundred Dollars (\$500.00), the person shall be guilty of a felony and shall be punished by incarceration in the county jail for not more than one (1) year or by incarceration in the county jail one or more nights or weekends pursuant to Section 991a-2 of Title 22 of the Oklahoma Statutes, at the option of the court, and shall be subject to a fine of not more than Five Thousand

Dollars (\$5,000.00) and ordered to provide restitution to the victim as provided in Section 991a of Title 22 of the Oklahoma Statutes.

SECTION 9. AMENDATORY 21 O.S. 1991, Section 1731, is amended to read as follows:

Section 1731. Larceny of merchandise held for sale in retail or wholesale establishments shall be punishable as follows:

1. For the first conviction, in the event the value of the goods, edible meat or other corporeal property which has been taken does not exceed Fifty Dollars (\$50.00), punishment shall be by imprisonment in the county jail not exceeding thirty (30) days, and by a fine not less than Ten Dollars (\$10.00) nor more than One Hundred Dollars (\$100.00); provided for the first conviction, in the event more than one item of goods, edible meat or other corporeal property has been taken, punishment shall be by imprisonment in the county jail not to exceed thirty (30) days, and by a fine not less than Fifty Dollars (\$50.00) nor more than One Hundred Dollars (\$100.00).

2. If it be shown, in the trial of a case in which the value of the goods, edible meat or other corporeal property does not exceed Fifty Dollars (\$50.00), that the defendant has been once before convicted of the same offense, he shall, on his second conviction, be punished by confinement in the county jail for not less than thirty (30) days nor more than one (1) year, and by a fine not exceeding One Thousand Dollars (\$1,000.00).

3. If it be shown, upon the trial of a case where the value of the goods, edible meat or other corporeal personal property does not exceed Fifty Dollars (\$50.00), that the defendant has two or more times before been convicted of the same offense, regardless of the value of the goods, edible meat or other corporeal personal property involved in the first two convictions, upon the third or any subsequent conviction, the punishment shall be by confinement in the ~~penitentiary~~ State Penitentiary for not less than two (2) nor more than five (5) years.

4. In the event the value of the goods, edible meat or other corporeal property is Fifty Dollars (\$50.00) or more, but is less than Five Hundred Dollars (\$500.00), the defendant shall be guilty of a felony and shall be punished by incarceration in the county jail for not more than one (1) year or by incarceration in the county jail one or more nights or weekends pursuant to Section 991a-2 of Title 22 of the Oklahoma Statutes, at the option of the court, and shall be subject to a fine of not more than Five Thousand Dollars (\$5,000.00) and ordered to provide restitution to the victim as provided in Section 991a of Title 22 of the Oklahoma Statutes.

5. In the event the value of the goods, edible meat or other corporeal property exceeds Fifty Dollars (\$50.00) is Five Hundred Dollars (\$500.00) or more, punishment shall be by confinement in the ~~penitentiary~~ State Penitentiary for not less than one (1) year nor more than five (5) years.

SECTION 10. This act shall become effective September 1, 1993.

Passed the House of Representatives the 28th day of April, 1993.

Speaker of the House of
Representatives

Passed the Senate the 14th day of April, 1993.

President of the Senate